



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-0001

OFFICE OF THE DIRECTOR

DEC 16 1997

MEMORANDUM FOR DIRECTORS OF PERSONNEL

FROM: JANICE R. LACHANCE
DIRECTOR

Janice R. Lachance

SUBJECT: Approval of New Voluntary Early Retirement
Authorities for Fiscal Year 1998

Under the provisions of the Office of Personnel Management's (OPM) memorandum of May 6, 1997, most agencies have requested and received extensions of their voluntary early retirement authority through December 30, 1997, to coincide with statutory voluntary separation incentive authority under Public Law 104-208. OPM will now consider requests for voluntary early retirement authorities covering all or any portion of the remainder of fiscal year 1998.

There are several significant changes in the manner in which agencies may offer early retirements after December 30, 1997. As noted in OPM's September 26, 1997, memorandum to agencies, in a recent decision (*Torres v. OPM*, 124 F.3d 1287, September 12, 1997), the United States Court of Appeals for the Federal Circuit held that OPM lacks authority to impose a restriction on the use of voluntary early retirement authority during major reductions in force. The court has recently denied a petition by the Department of Justice on behalf of OPM for a rehearing of this decision.

OPM has removed two eligibility restrictions, one affecting employees who were not on the agency's rolls 30 days before the agency requested authority and one affecting employees serving under temporary appointments. Agencies should refer to the attached guidance for detailed information regarding these and other changes.

Agencies may now request new voluntary early retirement authority covering all or any portion of the remainder of fiscal year 1998 in accordance with the documentation requirements set in the attachment. OPM will make every effort to process requests expeditiously.

To avoid disruption in ongoing voluntary separation incentive payment programs which extend past December 30, 1997, OPM will extend current voluntary early retirement authorities through March 31, 1998, upon request, for agencies with statutory voluntary separation incentive payment authority. Extensions will be based on a summary of the circumstances which formed the basis of Congressional approval of the separation incentive authority. To offer early retirements after March 31, 1998, these agencies must request new voluntary early retirement authority under the documentation requirements in the attached guidance.

Agencies should address requests to Mary Lou Lindholm, Associate Director for Employment at:

Employment Service
U.S. Office of Personnel Management
1900 E Street, NW., Room 6F08
Washington, DC 20415

Agencies may fax signed requests to the Workforce Restructuring Office at **(202) 606-2329** to speed processing of the request. The Office can be reached at (202) 606-0960 and e-mail can be directed to gpkeller@opm.gov.

Attachment

VOLUNTARY EARLY RETIREMENT AUTHORITIES

for Fiscal Year 1998



**U.S. OFFICE OF PERSONNEL MANAGEMENT
EMPLOYMENT SERVICE
WORKFORCE RESTRUCTURING OFFICE**

December 1997

Voluntary Early Retirement Authority For Fiscal Year 1998

OPM will consider requests for new voluntary early retirement authority under

5 U.S.C. §§ 8336 (d)(2) and 8414 (b)(1)(B) from agencies with major downsizing or restructuring plans for all or any portion of the remainder of fiscal year 1998. An agency should use early retirements only to the extent necessary to achieve reductions in the workforce that result from factors such as lack of funds, shortage of work, reorganizations, skills imbalances, or closures.

Highlights in this Guidance

- Agency headquarters may request voluntary early retirement authority for all or any portion of the remainder of fiscal year 1998 on an agencywide basis or as necessary, for specific organizational units or specific geographic areas.
- Agencies have the option of requesting authority to specify geographic coverage and duration of early retirement offers within the general authority approved by OPM. However, agencies may not limit early retirement offers to specific occupational series and grades or to organizations or components smaller than those approved by OPM.
- The United States Court of Appeals for the Federal Circuit held in a recent decision (Torres v. OPM, 124 F.3d 1287, September 12, 1997) that OPM lacks authority to impose a restriction on the use of voluntary early retirement. OPM has eliminated two previous eligibility restrictions on early retirements (see Page 7).
- To avoid disruption in ongoing voluntary separation incentive payment programs which extend past December 30, 1997, OPM will extend current voluntary early retirement authorities through March 31, 1998, upon request, for agencies with statutory voluntary separation incentive payment authority. Extensions will be based on a summary of the circumstances which formed the basis of Congressional approval of the separation incentive authority (see Page 9). These agencies must request new voluntary early retirement authority under the documentation requirements on Page 2 for periods after March 31, 1998.
- All requests must include any outstanding reports on any previously approved early retirement authorities. Fax requests to 202-606-2329.
- Inquiries should be directed to the Workforce Restructuring Office on 202-606-0960.

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FOR MORE INFORMATION:

Additional copies of this guidance are available on **OPM's WebSite** on the World Wide Web at **<http://www.opm.gov>**.

Also, you will find this information and copies of other OPM guidance, regulations, or laws governing downsizing and restructuring if you access **OPM ONLINE**, an electronic bulletin board, at **(202) 606-4800**, via computer and modem.

For additional information regarding buyouts, early retirement, career transition, RIF, and Federal retirement benefits, visit "***Planning Your Future --A Federal Employee's Survival Guide***," located at **<http://safetynet.doleta.gov>**.

For individual copies of OPM publications: "*The Employee's Guide To Career Transition*," "*The Employee's Guide To RIF*," "*The Employee's Guide To RIF-Separation Benefits*," or the "*Employee's Guide To Buyouts*," call OPM's **Restructuring Hotline** at **(202) 606-2425** or email **sjmcgarr@opm.gov**.

You can contact OPM'S **Workforce Restructuring Office** for information on all aspects of downsizing at **(202) 606-0960** or by **fax at (202) 606-2329**.

A. BASIS FOR APPROVAL OF VOLUNTARY EARLY RETIREMENT AUTHORITY

1. The authority for OPM to approve early retirement authorities is found in 5 U.S.C. §§ 8336(d)(2) (for CSRS employees) and 8414(b)(1)(B) (for FERS employees).
2. In order to use voluntary early retirements, agencies must first obtain approval from the Office of Personnel Management (OPM). Approval is based on an OPM determination that the agency is undergoing a major reorganization, major reduction in force, or major transfer of function in which a significant percent of the agency's workforce will be subject to separation or downgrading.
3. An agency should use early retirements only to the extent necessary to achieve reductions in the workforce that result from factors such as lack of funds, shortage of work, reorganizations, skills imbalances, or closures.

B. WHEN SHOULD AN AGENCY SUBMIT A REQUEST FOR EARLY RETIREMENT AUTHORITY TO OPM?

1. An agency undergoing a major reorganization, major reduction in force, or major transfer of function in which a significant percent of the agency's workforce will be subject to separation or downgrading may wish to use voluntary early retirements to avoid or minimize involuntary separations.
2. Agencies wishing to use early retirement after December 30, 1997, may request authority to cover all or any portion of the remainder of fiscal year 1998. Agencies wishing to use early retirements after December 30, 1997, which do not have statutory voluntary separation incentive payment authorization which extends past December 30, 1997, must request a new authority for FY 1998.
3. OPM will provide immediate extensions of current voluntary early retirement authorities through March 31, 1998, for agencies with statutory voluntary separation incentive authority.
 - a. Extensions will be made based on a summary of the circumstances which formed the basis of Congressional approval of the voluntary separation incentive authority. (See Page 9 for information regarding requests for extensions).
 - b. Agencies requesting extensions through March 31, 1998, are not required to provide the data described in section C below to support approval of the extension (see Page 10). However, subsequent requests from such agencies to cover periods after March 31 must include this information.

4. In all cases, agencies wishing to use early retirements after March 31, 1998, must submit a new request for voluntary early retirement authority under the provisions of this guidance.

C. CONTENTS OF REQUEST FOR EARLY RETIREMENT AUTHORITY

1. Each request for authority covering periods after December 30, 1997, must contain certain information.

a. Reasons why the voluntary early retirement authority is needed.

Agencies must include a detailed overview of the agency's personnel and budgetary situation that has resulted in an excess of personnel. Agencies should also include a copy of the agency's strategic reorganization plan to document the problem.

b. Identification of the department or agency and coverage of the authority.

Voluntary early retirement authority will be provided on an agencywide basis or for specific organizational unit(s). Agencies should explain in their request whether the agency will offer voluntary early retirements agencywide, or to specific organizational unit(s). The scope of the agency's request will determine the degree to which the early retirement authority can be limited.

EXAMPLES

AGENCYWIDE. If OPM approves an agency request to offer voluntary early retirements agencywide, the agency must offer voluntary early retirements to employees in all agency organizational units. An agency may additionally, request that OPM delegate its authority to specify in which geographic area(s) and during which time period(s) it will offer early retirements under the agencywide authority. Even when agencies limit agencywide early retirement offers by geographic area and time periods, the agency cannot further limit them to specific organizational units within the agency.

SPECIFIC ORGANIZATIONAL UNIT(S). If an agency wants to limit early retirement offers to specific organizational units, it must request voluntary early retirement on this basis. If the agency wants to further limit early retirements to specific geographic areas of those units and wishes to offer it only in specific time periods, it should also request delegated authority to do so. Agencies may not further limit voluntary early retirement authority within specific organizational unit(s), for example, to specific occupations, grades, and series.

INDIVIDUAL ACTIVITIES AND INSTALLATIONS. An agency may also request a voluntary early retirement authority in which particular organizational unit(s), geographic area(s), and time period(s) are specified in the request. If OPM grants such authority, the agency cannot expand or limit the authority beyond the approval.

In no case may offers be made based on specific occupations, grades, and series.

c. The window period for voluntary early retirements. The agency may request voluntary early retirement authority covering all or any portion of the remainder of fiscal year 1998. (Since most agencies are already authorized to use early retirements through December 30, 1997, new early retirement authorities for those agencies can generally begin any time on or after December 31, 1997).

In order to be able to limit the time period approved by OPM in which employees may retire early, the agency must request that OPM delegate this authority.

If OPM delegates the authority to establish specific time period(s) for voluntary early retirements, an agency may establish early retirement windows (within the general authority approved by OPM) with specific opening and closing dates. (See Page 5 for information on terminating early retirement offers before the established closing date). The agency should note whether the delegation will be approved to cover specific organizational unit(s) or geographic area(s), or both. Under a delegation, the agency may establish different windows covering different organizational unit(s) or geographic area(s).

d. The total number of employees in the agency, temporary, non-temporary, and total.

e. The total number of non-temporary employees in the agency who are, or will be, separated, surplus, or excess during the period of the major reorganization, reduction in force, or transfer of function on which the request is based.

f. The total number of employees in the agency who are eligible for voluntary early retirement.

g. The total number of employees in the agency who are expected to retire early during the period covered by the request.

h. The name, title, telephone number, and fax number of an agency contact person for the authority. This information is critical to ensure prompt response or follow-up from OPM (see Page 11).

D. WHERE TO SUBMIT REQUESTS FOR AUTHORITY

1. Requests for voluntary early retirement authority should be addressed to Mary Lou Lindholm, Associate Director for Employment at:

Employment Service
U.S. Office of Personnel Management
1900 E Street, NW., Room 6F08
Washington, DC 20415

2. To expedite processing, agencies may wish to fax signed requests to OPM's Workforce Restructuring Office to allow preliminary work to begin.
Fax to: 202-606-2329.

3. Inquiries regarding early retirements should be directed to the Workforce Restructuring Office on 202-606-0960. E-mail questions may be sent to gpkeller@opm.gov.

4. An agency's request for voluntary early retirement must be signed by the head of the agency or a specific designee.

E. USE OF VOLUNTARY EARLY RETIREMENT AUTHORITY

1. An agency should use early retirements only to the extent necessary to achieve reductions in the workforce that result from factors such as lack of funds, shortage of work, reorganizations, skills imbalances, or closures.

2. Should the agency find that the basis under which it requested and received voluntary early retirement authority from OPM no longer exists, the agency may request that OPM terminate its authority.

3. OPM may terminate an agency's authority if OPM determines that the agency is no longer undergoing the major reorganization, major reduction in force, or major transfer of function that formed the basis for OPM's approval of the authority. OPM may also take steps to amend, limit, or terminate an authority in order to ensure that early retirement programs are operated in a manner consistent with applicable laws, regulations or program policies.

4. After the agency has received approval from OPM to offer voluntary early retirements (whether throughout the entire agency or for specific organizational unit(s)), the agency may, if delegated, further limit the availability of the authority in the agency or organizational unit(s) only by:

- a. geographic area;
- b. time period(s) during which voluntary early retirement is offered (subject to 6 below); or
- c. a combination of these factors.

5. Offers cannot be expanded by the agency beyond the organizational unit(s) approved by OPM. Agencies cannot limit the authority within organizational unit(s) based on occupations, grades, or series.

6. Agencies can limit early retirement window periods by an established closing date or by receipt of a specified number of applications for retirement. The agency must notify employees at the time of the early retirement offer that the agency retains the right to terminate the offer upon receipt of a specified number of applications.

7. Once an agency has announced the time period and identified the coverage of the offer, the agency cannot terminate or shorten the announced early retirement window period (unless it has established and received a specified number of applications for retirement as described in 6). Otherwise, the agency must receive approval from OPM to terminate the window period early.

F. LENGTH OF EARLY RETIREMENT AUTHORITIES

1. Agencies may request and OPM can approve voluntary early retirement authority to cover all or any portion of the remainder of fiscal year 1998.

2. Agencies may not limit the window period in which voluntary early retirements are available to employees without delegated authority from OPM. The authority to limit the availability during specific time periods must be requested from OPM when the agency is seeking authority.

3. If OPM delegates the authority to establish specific time period(s) during which voluntary early retirements are offered, an agency may establish early retirement windows (within the general authority approved by OPM) with specific opening and closing dates. If the agency has also been delegated authority to offer early retirements in specific geographic area(s) within the agency or organizational unit(s) approved by OPM, the agency may designate windows periods for specific geographic areas in the agency or organizational unit(s) approved by OPM.

4. As noted on Page 5, after announcing a time period during which employees may retire early, the agency can terminate the offer before the closing date of the announced time period upon receipt of a specified number of applications for early retirement. In order to terminate the offer early, the agency must notify employees at the time of offer that the agency retains the right to limit early retirement window periods by an established closing date or by receipt of a specified number of applications for retirement.

5. Agencies are urged to consider the impact of the length, timing, and availability of early retirement offers on employee decisions to separate. For example, long-term availability or repeated offers can create an atmosphere in which employees choose not to retire because they assume that another opportunity will be available should they decide to wait until later. Brief offers which do not afford employees the opportunity to consider the impact of this major career decision can also minimize effectiveness. Early retirement programs are most effective when offers are definitive, brief (but of sufficient duration to allow employees to choose), and not likely to be repeated.

G. ELIGIBILITY OF EMPLOYEES TO RETIRE EARLY

1. In order to be eligible to retire under a voluntary early retirement authority, by the date of separation, an employee must:

- a. complete at least 20 years of creditable service and be at least age 50; or complete at least 25 years of creditable service, regardless of age;
- b. serve in an agency or specific organizational unit of the agency which is covered by a voluntary early retirement authority approved by OPM;

- c. serve in a geographic area (of the covered agency or organizational unit) which has been designated by OPM (or by the agency if OPM has delegated this authority to the agency) during a time period designated by OPM (or the agency, if OPM has delegated this authority to the agency) in which voluntary early retirements are offered by the covered agency or organizational unit;
- d. apply for the early retirement option; and
- e. have served in a position covered by the Civil Service Retirement System for at least 1 year out of the 2 years immediately before retirement (this requirement does not apply to employees covered by the Federal Employees Retirement System).

H. CHANGES IN CERTAIN ELIGIBILITY PROVISIONS FOR EARLY RETIREMENT

1. Removal of Certain Restrictions on Early Retirement Eligibility. In a recent decision (Torres v. OPM, 124 F.3d 1287, September 12, 1997), the United States Court of Appeals for the Federal Circuit held that OPM lacks authority to impose a restriction on the use of voluntary early retirement authority.

As announced by OPM on September 26, 1997, agencies may no longer exclude otherwise eligible employees who:

- are serving under temporary appointments; or
- have not been on the agency's rolls at least 30 days before the agency's request to OPM for early retirement authority.

2. Use of Annual Leave to Qualify for Voluntary Early Retirement:

a. Section 634 of Public Law 104-208 (the Fiscal Year 1997 Omnibus Appropriation Bill approved September 30, 1996) provides that an employee who is being involuntarily separated from an agency due to reduction in force or transfer of function may elect to use annual leave and remain on the agency's rolls after the effective date the employee would otherwise have been separated in order to establish initial eligibility for immediate retirement, including discontinued service or voluntary early retirement. The same option is also available to acquire eligibility to continue health benefits into retirement.

b. On March 10, 1997, OPM published interim regulations (effective on the date of publication) at 62 FR 10681 that expand the availability of annual leave to establish initial retirement eligibility for employees in reduction in force and relocation situations. These regulations also make related changes concerning the availability of annual leave to qualify for continuance of health benefits in the same situation.

c. OPM's regulatory provisions have been changed in accordance with Section 634 of P.L. 104-208:

- (1) an employee who is being involuntarily separated now has a right to be retained on available annual leave to achieve initial eligibility for retirement and/or continued health benefits coverage; and
- (2) this right extends to transfer of function relocation situations.

d. An employee who is being involuntarily separated from an agency because of reduction in force may use annual leave past the date that the employee would otherwise have been separated for the purpose of establishing initial eligibility for immediate retirement, including discontinued service or voluntary early retirement. An employee who is being involuntarily separated from an agency because of reduction in force may use annual leave for the purpose of acquiring initial eligibility under section 5 U.S.C. § 8905 to continue health benefits into retirement.

e. An employee who is being involuntarily separated as an adverse action because of the employee's decision to decline relocation (including transfer of function) may use annual leave to remain on the agency's rolls after the effective date of the relocation to establish initial eligibility for immediate retirement (including discontinued service or voluntary early retirement), and/or to establish initial eligibility under 5 U.S.C. § 8905 to continue health benefits coverage into retirement.

f. The agency may not retain an employee past the date that the employee first becomes eligible for immediate retirement, and/or for continuation of health benefits into retirement.

g. All accumulated and accrued annual leave may be credited to help the employee reach eligibility.

I. VOLUNTARY BASIS OF EARLY RETIREMENTS

An employee's decision to separate under an early retirement offer is entirely voluntary. Each agency with an approved voluntary early retirement authority must ensure that employees are not coerced into retiring early. The agency should issue a statement to each employee affirming that early retirement is, in fact, voluntary. Also, if agency management becomes aware that any employee is coerced into early retirement, the agency must take appropriate corrective action.

J. IMMEDIATE EXTENSIONS OF EARLY RETIREMENT AUTHORITY THROUGH MARCH 31, 1998, FOR AGENCIES WITH ONGOING STATUTORILY AUTHORIZED BUYOUT PROGRAMS

1. To avoid disruption in ongoing voluntary separation incentive payment programs which extend past December 30, 1997, OPM will provide immediate extensions of current voluntary early retirement authorities through March 31, 1998, for agencies with statutory voluntary separation incentive authority. Extensions will be made based on a summary of the circumstances which formed the basis of Congressional approval of the voluntary separation incentive authority.

2. Who May Request an Extension? Agencies with a statutorily approved voluntary separation incentive payment program which have an approved early retirement authority set to expire December 30, 1997, may wish to request an extension through March 31, 1998. This will allow the agency to continue using early retirement and buyouts, without disruption, until a request for a new authority (covering any portion of the remainder of the fiscal year) can be processed.

a) Virtually all agencies with early retirement authority in fiscal year 1997 have received an extension of the authority through December 30, 1997. Agencies which do not have a statutorily approved voluntary separation incentive payment program seeking to use early retirements in FY 1998 must request a new authority to use early retirements for periods after December 30, 1997.

b) In all cases, agencies wishing to use early retirements after March 31, 1998, must submit a new request for early retirement authority under the provisions of this guidance.

c) Agencies which do not have early retirement authority, but wish to use it to avoid involuntary separations must request a new authority.

3. How to Request an Extension Through March 31, 1998: Extensions will be provided to agencies with ongoing separation incentive (buyout) programs (approved by Congress) to continue efforts to downsize, without interruption, after December 30, 1997. To obtain OPM approval, agencies should submit a request which should include:

a) A summary of the circumstances that formed the basis for Congressional approval of separation incentive authority;

c) A statement that the circumstances which precipitated the need for downsizing and buyout authority continue; and

a) Final FY 1997 reports to OPM on the use of buyouts and early retirements (necessary to comply with P.L. 103-226).

4. Data Requirements. There are no additional data requirements for extensions.

5. OPM expects that early retirements under these extensions will be approved judiciously and only to the extent necessary to accomplish the objectives outlined in the agency's original request to OPM. Should the agency find that the basis under which it requested and received voluntary early retirement authority from OPM no longer exists, the agency may request that OPM terminate its authority.

6. Agencies should address requests for extensions to Mary Lou Lindholm, Associate Director for Employment at:

Employment Service
U.S. Office of Personnel Management
1900 E Street, NW., Room 6F08
Washington, DC 20415

Agencies may fax a signed request to the Workforce Restructuring Office at (202) 606-2329 to speed processing of the request. The Office can be reached at (202) 606-0960 and e-mail can be directed to gpkeller@opm.gov. Agencies seeking authority for periods after December 30, 1997, should forward requests to OPM by December 23, 1997, to allow processing before December 30, 1997.

K. PROCESSING AND APPROVAL OF REQUESTS

1. OPM is committed to providing prompt and expeditious responses to requests for early retirement.

2. As processing continues, OPM will, as needed, follow up with the agency for any required additional data, information, clarification, or other materials.
3. Before OPM will approve a new authority for an agency, the agency must forward any outstanding reports (generally, a copy of the most recent quarterly report) on the use of any previously approved early retirement authorities, as required under the original authority. OPM may also suspend or terminate an authority if the agency fails to comply with the reporting requirements included in the authority (the reporting requirements are detailed beginning on Page 11 of this guidance).
3. OPM will fax a signed copy of the response to the contact person listed on the request immediately upon an approval of a response. As noted above, it is critical to include **"(t)he name, title, telephone number, and fax number of an agency contact person for the authority"** to ensure prompt response or follow-up from OPM.
4. The signed original response will be mailed to the agency.

L. REPORTS TO OPM ON USE OF EACH AUTHORITY

1. Agencies using early retirements or buyouts are required to submit data to OPM regarding activity under these programs. OPM has created a single reporting format which captures all of this data. This report is essentially identical to the report agencies have used for the last several years (see Page 14)
2. Agencies are required to provide periodic and final reports to OPM on the use of voluntary early retirement authorization and buyouts. In order to track and evaluate trends, help anticipate staffing needs in OPM's Retirement and Insurance Service (to allow prompt processing of retirement applications), and to meet reporting requirements under various buyout laws, agencies need to provide activity summaries, quarterly interim reports, and final reports on a timely basis.

3. Types of Reports

a) Quarterly Interim Reports: An interim report is due 30 days after the end of each quarter following approval of the authority. The quarterly interim report should include data specific to the quarter which just closed as well as cumulative fiscal year data (as of the end of the fiscal quarter that the report covers).

Example: An agency has an early retirement authority which runs from December 31, 1997, through September 30, 1998. By July 30, 1998, the agency must forward a quarterly interim report to OPM which includes data covering activity between April 1, 1998, through June 30, 1998 (the second quarter of the authority) and data which covers

December 31, 1997, through June 30, 1998 (cumulative fiscal year data).
NOTE: Agencies with early retirement authority beginning December 31, 1997, may report any early retirements occurring on December 31, with data for the second quarter of the fiscal year (i.e., there is no need to submit a quarterly report covering this one-day period).

b) Final Reports: A final report is due 60 days following the closing date of the authority.

c) Activity Summaries: Agencies are strongly encouraged to forward quarterly summaries to OPM which highlight where voluntary early retirements will be offered, the window period for an eligible agency or geographic area, and the number of employees expected to retire.

M. CONTENT OF REPORTS

1. Each report to OPM on the use of a voluntary early retirement authority must contain the information in the attached sample.
2. Agencies **MUST** use the reporting format included with the authority. **DO NOT USE ANY OLD REPORTING FORMAT WITH NEW AUTHORITY REPORTS.**
3. Although this report is essentially identical to the reporting format used for the last year, agencies are advised to carefully review this reporting format before offering early retirements in order to anticipate and track the data required in this report.

NOTE: The major change in reporting requirements in FY 1998 is that further data are not required related to buyouts under Public Law 103-226, the Federal Workforce Restructuring Act of 1994. Those buyouts concluded March 31, 1997. All agencies should have already forwarded final reports on that law to OPM.

4. Agencies should submit a completed report to OPM even if there has been no early retirement or buyout activity in the agency. Otherwise, OPM cannot determine whether the agency had no activity, failed to report, or that the report was not complete when it reached OPM. Reports should cover buyout, RIF, early retirements and other attrition activity occurring only during the period of the authority.

5. OPM may suspend or terminate an authority if the agency fails to comply with the reporting requirements included in the authority.

6. In the past, Public Law 103-226 required agencies to provide, for each incentive paid, the amount of the buyout, employee's grade, and the employee's duty station or location. Since buyouts under that statute have all been completed, this reporting provision has been dropped and does not apply to reports approved for fiscal year 1998. (Agencies will still need to submit this information as part of the final report to OPM on the use of voluntary separation incentives paid in FY 1997 under the Federal Workforce Restructuring Act).

N. WHERE AND WHEN AGENCIES SHOULD REPORT

1. Where to Send Reports: Please complete the report and send it to:

Office of Personnel Management
Employment Service
Workforce Restructuring Office
Room 6504
1900 E Street, NW
Washington, DC 20415.

2. You may fax a copy of the report to (202) 606-2329.

3. Reporting Schedule

QUARTER	QUARTER ENDING DATE	REPORT DUE BY
First	December 31	January 30
Second	March 31	April 30
Third	June 30	July 30
Fourth (FINAL for FY)	September 30	November 30

(Note that final FY report is due 60 days after end of FY)

**O. REPORT TO OPM ON USE OF VOLUNTARY SEPARATION INCENTIVES AND
VOLUNTARY EARLY RETIREMENT AUTHORITY**

*ALL AGENCIES SHOULD USE THIS FORM.
THIS FORMAT SUPERSEDES PREVIOUS REPORTING REQUIREMENTS*

Department or Agency: _____

DATE OF REPORT: _____

QUARTER				FISCAL
<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	YEAR
<i>(circle quarter)</i>				<u>TOTAL</u>
				<u>L</u>

UNDER PUBLIC LAW 104-208 or SIMILAR LEGISLATION

(1) Number of voluntary early retirements with BUYOUT paid:

OPM EARLY RETIREMENT AUTHORITY NUMBER: _____

- | | | |
|--|-------|-------|
| (a) Total early retirees with BUYOUT: | _____ | _____ |
| (b) Average age of early retirees with BUYOUT: | _____ | _____ |
| (c) Average grade of early retirees with BUYOUT: | _____ | _____ |
| (d) Average amount of BUYOUT: | _____ | _____ |

NOTE: Do not provide lists of individual buyouts as previously required under P.L. 103-226

(2) Number of optional retirements with BUYOUT paid:

- | | | |
|---|-------|-------|
| (a) Total optional retirements with BUYOUT: | _____ | _____ |
| (b) Average age of optional retirees with BUYOUT: | _____ | _____ |
| (c) Average grade of optional retirees with BUYOUT: | _____ | _____ |
| (d) Average amount of BUYOUT: | _____ | _____ |

NOTE: Do not provide lists of individual buyouts as previously required under P.L. 103-226

(3) Number of resignations with BUYOUT paid:

- | | | |
|---|-------|-------|
| (a) Total resignations with BUYOUT: | _____ | _____ |
| (b) Average age of resignees with BUYOUT: | _____ | _____ |
| (c) Average grade of resignees with BUYOUT: | _____ | _____ |
| (d) Average amount of BUYOUT: | _____ | _____ |

NOTE: Do not provide lists of individual buyouts as previously required under P.L. 103-226

PAGE 2 OF REPORT TO OPM
ON USE OF VOLUNTARY SEPARATION INCENTIVES AND
VOLUNTARY EARLY RETIREMENT AUTHORITY

QUARTER
1st 2nd 3rd 4th
(circle quarter)

FISCAL
YEAR
TOTAL

**VOLUNTARY EARLY RETIREMENTS WITHOUT SEPARATION INCENTIVE
PAYMENTS**

(4) Number of voluntary early retirements without BUYOUT paid:

OPM EARLY RETIREMENT AUTHORITY NUMBER: _____

(a) Total early retirees:	_____	_____
(b) Average age of early retirees:	_____	_____
(c) Average grade of early retirees:	_____	_____

(5) Was reduction in force (RIF) used?

_____ NO (go to #7) _____ YES (complete 6 & 7)

(6) Number of employees affected by reduction in force (RIF):

(a) Total RIF separations:	_____	_____
(b) Total RIF downgrades:	_____	_____
(c) Total RIF reassignments:	_____	_____

(7) Other attrition that occurred without BUYOUT:

Total separations:	_____	_____
Other retirements:	_____	_____
Other resignations:	_____	_____
Other transfers:	_____	_____
Other:	_____	_____

P. WAIVERS OF 5-YEAR FEHB PARTICIPATION REQUIREMENT

1. In April 1994, OPM created an automatic procedure which enables employees retiring with buyouts under the Federal Workforce Restructuring Act of 1994, and other similar legislation, to obtain waivers of the 5-year participation requirement for continuing their coverage under the Federal Employees Health Benefits Program as retirees.

2. OPM's Retirement and Insurance Service issued Benefits Administration Letter 96-208 on December 4, 1996, to modify its waiver policy and update the procedures for automatic waivers under P.L. 104-208 and other similar authorities. The Benefits Administration Letter is available on OPM's website and can be downloaded from the downsizing areas on OPM's electronic bulletin boards:

OPM's Website:	www.opm.gov
OPM Online (formerly MAINSTREET):	(202) 606-4800 ; or
The Federal Job Opportunities Board:	(912) 757-3100.

3. Who is covered by the automatic waiver?

a) Employees who accept a buyout offer and retire with the incentive on or before December 30, 1997, or the expiration date of statutory buyout authority other than P.L. 104-208.

b) Employees who accept a buyout offer on or before the expiration date of the statutory buyout authority but (if provided for in the buyout law) separate after completing additional service required by the agency to ensure continued performance of agency mission ("delayed buyouts").

c) Employees who accept an early retirement offer *without* a buyout and separate on or before December 30, 1997 (or the expiration date of statutory buyout authority other than P.L. 104-208).

d) Employees in other agencies covered by other statutory buyout authority.

4. Who is not covered by the automatic waiver?

a) Employees who are not covered by FEHB on October 1, 1996, and continuously thereafter.

Q. PAYMENTS TO THE RETIREMENT FUND

1. The Federal Workforce Restructuring Act of 1994 (P. L. 103-226 as amended November 1995) required agencies (including the Department of Defense and the Central Intelligence Agency) to make payments to the Civil Service Retirement and Disability Fund in cases where an employee covered by the Civil Service Retirement System (CSRS) accepted early retirement and a buyout. These payments, designed to offset additional costs to the retirement fund generated by the large number of Federal employees taking early retirement, were equal to 9 percent of the final basic pay (see 3 below) of the buyout taker.

The 9 percent agency contribution to the retirement fund did not apply to any early retirements without buyouts.

2. Currently, essentially all agencies with buyout authority are subject to a 15 percent contribution for every separation (retirement, early retirement, or resignation) of an employee covered by CSRS or FERS with an incentive (buyout).

The 15 percent payment does not apply to any early retirements without a buyout.

For example, under P.L. 104-208, the agency paying the buyout must pay the CSRDF an amount equal to 15 percent of the final basic pay (see 3 below) of every employee covered by CSRS or FERS who receives an incentive authorized under the statute based on optional retirement, voluntary early retirement, or resignation.

NOTE: The 9 percent contribution required under the Federal Workforce Restructuring Act of 1994 does not apply to buyouts paid under P.L. 104-208.

3. Department of Defense: Under Public Law 103-226, for buyout separations between March 30, 1994, and September 30, 1997, Defense must pay the Civil Service Retirement and Disability Fund an amount equal to 9 percent of the final basic pay of any CSRS employee who receives an incentive and takes a voluntary early retirement.

Under Public Law 105-85, November 18, 1997, the Department of Defense must pay a 15 percent contribution to the Civil Service Retirement and Disability Fund for each incentive paid on or after October 1, 1997, to an employee covered by CSRS or FERS, regardless of the type of buyout separation. For buyout separations on or after October 1, 1997, the 9 percent contribution is not applicable.

4. In addition, in FYs 95 through 98, Defense must pay the \$80 contribution (see Page 18) per year to the retirement fund for each employee covered by CSRS or FERS as of March 31 of each year.

5. All agencies using incentives should check the statute authorizing the incentives to determine the amount of the payment due to the retirement fund or contact OPM's Retirement and Insurance Service.

6. Final basic pay means the total amount of basic pay that would be payable to an employee for a year of service, computed using an employee's final rate of basic pay, with adjustments for less than a full-time work schedule.

7. Discontinued service retirements and separations or retirements without incentives, for example, are not subject to the additional payment requirement.

8. "\$80 CONTRIBUTION"

a. For fiscal years 1995 through 1998, Executive agencies, excluding the General Accounting Office, are required to remit to OPM for deposit into the Civil Service Retirement and Disability Fund (CSRDF) an amount equal to the product of the number of employees who, as of March 31st of each fiscal year (1995 through 1998), are covered by CSRS and FERS multiplied by \$80. Executive agencies include: all Executive Departments (e.g., Defense, State, Justice, etc.); Government owned or controlled corporations; and independent establishments (such as OPM) in the Executive branch. Executive agencies **DO NOT** include: any portion of the Legislative branch; any portion of the Judicial branch; U.S. Postal Service and the Postal Rate Commission; District of Columbia Government; and non-Government entities (such as the State Justice Institute) that have employees covered by CSRS or FERS.

b. As of March 31st of each fiscal year through 1998, Executive agencies (other than the General Accounting Office) must determine the number of employees covered by FERS or CSRS (in a pay or non-pay status), and multiply that by \$80. So that these amounts can be reconciled, the remittances are due to OPM no later than September 1st.

c. Inquiries: Each agency is required to designate a Retirement Counselor who functions as OPM's point of contact with the agency. Discuss any problem with your appropriate agency's representative before approaching us so that he or she is aware of the problem and its implications. If after your discussion, you still have a question or problem, please contact us. For further information on reimbursements to the retirement fund, contact OPM's Retirement and Insurance Service on (202) 606-0666. Also, OPM issued detailed instructions to agencies on how to make these payments. The instructions are contained in Payroll Office Letter 94-3, issued by OPM's Retirement and Insurance Service on April 29, 1994.